IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 7TH SEPTEMBER 2007 / 16TH BHADRA 1929

Bail Appl..No. 5268 of 2007()

[CRIME NO.704/2007 OF KODUNGALLUR POLICE STATION]

PETITIONERS/ACCUSED 1,2 & 4:

---

1. SYAM, AGED 26 YEARS,
   S/O.KAYI PARAMBIL MOHAN, ERIYAD VILLAGE,
   KODUNGALLUR TALUK.

2. LIJU, S/O.NADUMURY SIVARAMAN,
   ERIYAD VILLAGE, KODUNGALLUR TALUK.

3. KANNAN @ SHIBIN,
   S/O.VALLOMPARAMBATH PANIKKASSERY VINAYAKAN,
   ERIYAD VILLAGE, KODUNGALLUR TALUK.

BY ADV. SRI.NAGARAJ NARAYANAN
SRI.SAIJO HASSAN
SRI.A.S.SABU

RESPONDENTS: STATE:

STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 07/09/2007 ALONG WITH BA NO.5345/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.Nos.5268 & 5345 of 2007

Dated this the 7th day of September 2007

O R D E R

These applications are filed by the petitioners for anticipatory bail. They are accused 1,2,4 and 10 in a crime registered inter alia under Section 452 read with 349 I.P.C. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The crux of the allegations raised in the crime is that an unlawful assembly of persons of which the persons were members had trespassed into the E.M.S Memorial Reading Room at Athani, Kodungalloor and indulged in indiscriminate resort to violence and destruction. The crime is registered. Investigation is in progress. The petitioners apprehend imminent arrest. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. It is prayed that anticipatory bail may be granted to the petitioners.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that all the

materials collected do point to the complicity of the petitioners in the crime. There are no circumstances warranting or justifying the invocation of the discretion under Section 438 Cr.P.C, submits the learned Public Prosecutor.

4. I find merit in the opposition by the learned Public Prosecutor. I am unable to discern any features in this case which would justify invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. This is a fit case where the petitioners must appear before the investigating officer or the learned Magistrate having jurisdiction and then seek regular bail in the normal and ordinary course.

5. In the result, these petitions are dismissed. Needless to say, if the petitioners surrender before the investigating officer or the learned Magistrate and apply for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

jsr // True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007